

Statement of Senator Judd Gregg
Smallpox Emergency Personnel Protection Act of 2003
April 11, 2003

Mr. GREGG. Madam President, with a mortality rate of over 30 percent, smallpox was one of the world's most feared diseases until a collaborative global vaccination program eradicated the disease in the 1970s. Smallpox no longer occurs naturally, and today can only be found in laboratories in the United States and Russia. Or so we believe. With the fall of the Soviet Union, some in the intelligence community are concerned that samples of the virus may have found its way to other countries, including Iraq. This is of grave concern to our Nation and the entire global community. Highly contagious and easily dispersed in the air, smallpox virus can be a deadly weapon in terrorist hands.

Congress and the administration have responded to this potential threat by authorizing the purchase of approximately 300 million doses of smallpox vaccine, enough for every man, woman, and child in America. Equally important, the administration developed a plan to respond in the event of an outbreak of the disease. Since the administration launched its smallpox vaccination plan on January 24, 2003, over 30,000 health care workers have been inoculated. To adequately prepare our Nation for the possibility of such an attack, however, more health care providers must be immunized. Additionally, it is critical that we begin vaccinating other emergency personnel, such as law enforcement officers, firefighters, and paramedics.

However, confusion as to the threat posed by the smallpox virus and concerns about the safety and potential side-effects of the vaccine, as well as the availability of compensation for any vaccine-related injuries, have impeded the program's progress. Although severe adverse reactions to the smallpox vaccine are very rare, we must ensure that health care and emergency workers who suffer such reactions receive appropriate medical care and compensation. Moreover, since the smallpox vaccine is made up of a live virus, we must also provide protection to any family members, patients, and others who are accidentally infected by these inoculated workers.

That is why I introduced the Smallpox Emergency Personnel Protection Act of 2003 (S. 719), which I chair. The bill before us reflects the bipartisan agreement that was reached after many weeks of hard work and long discussions with Republicans, Democrats, and the White House on this legislation.

The Smallpox Emergency Personnel Protection Act would create a "no fault" system to compensate vaccinated health care and emergency workers injured by the smallpox vaccine and other smallpox countermeasures, including any persons who accidentally contract smallpox from the vaccine. All persons experiencing any adverse events from the smallpox vaccine would be reimbursed for all reasonable necessary medical expenses and be compensated for lost wages.

In the rare event of death, the victim's family would receive a \$262,100 lump-sum benefit payment. If there are any surviving children, then the family would have the option of receiving either the lump-sum or a \$50,000 annual death benefit payment until the children become 18

years of age.

Those who become permanently and totally disabled as a result of the vaccine could receive up to \$50,000 annually in lost wages. Those who are temporarily disabled could receive up to \$50,000 annually in lost wages, up to a lifetime total of \$262,100. No such lifetime limit would apply in the case of permanent and total disability.

While those harmed by the smallpox vaccine retain the right to sue the federal government for negligence, all vaccine related claims must first go through the compensation program. Finally, the legislation includes some clarifications of section 304 of the Homeland Security Act, to ensure that providers, such as hospitals, doctors, nurses, and public healthcare workers, are protected from personal liability in the administration of the smallpox vaccine and in caring for infected persons.

The Smallpox Emergency Personnel Protection Act is an important element of our national smallpox vaccination program that will help ensure its timely implementation. I do hope that the Secretary of Health and Human Services will carry out the smallpox vaccination program in a manner that appropriately monitors and evaluates newly proposed technologies, devices, and other elements of the program, in order to assure the safest route of administration. To this end, I anticipate that the Secretary will review periodically for possible inclusion under the program new and modified technologies, tasks, and procedures that may reduce the risks and increase the safety of the program and its administration. I understand that the Secretary will continue to engage in dialogue with the affected parties and to ensure the safe and effective administration of the smallpox vaccine.

Our Nation's healthcare and emergency workers will be on the front line in responding to any smallpox attack. Now, more than ever, we need to provide piece-of-mind and security to healthcare and emergency workers who volunteer to be vaccinated. This compensation package will give these workers the confidence they need to proceed with vaccinations. It is imperative that Congress pass the Smallpox Emergency Personnel Protection Act as swiftly as possible, so that we can ensure that our healthcare and emergency workers and their families are protected and that this country is prepared to respond in the event of an attack.